



California Regional Water Quality Control Board

San Diego Region



Arnold Schwarzenegger
Governor

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[http:// www.waterboards.ca.gov/sandiego](http://www.waterboards.ca.gov/sandiego)

March 03, 2010

Certified Mail – Return Receipt Requested
Article Number: 7009 1410 0002 2347 3940

Joe LaCava
California Quartet
5274 La Jolla Boulevard
La Jolla, CA 92037

In reply refer to:
255009: cloflen

Dear Mr. LaCava:

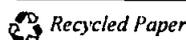
SUBJECT: Amendments to CWA Section 401 Water Quality Certification
No. 02C-105

On September 23, 2009 the California Regional Water Quality Control Board, San Diego Region (Regional Board) received a request from Helix Environmental Planning, Inc., on behalf of California Quartet, to amend the Saddleback Meadows Project (Project) Section 401 Water Quality Certification, File No. 02C-105 (Certification) to allow for the Project design to be changed back to the original Certification. On September 19, 2006 the Project was amended to lessen the size of the Project footprint and impacts, reducing the number of lots from 283 to 226. The proposed second amendment would change the number of lots from 226 back to 283.

The Project includes the construction of a 283 unit residential development on approximately 156 acres in unincorporated southeastern Orange County. California Quartet proposes to change the project impacts and mitigation back to those reflected in the original Certification. Additionally, a revised Conceptual Water Quality Management Plan, dated January 25, 2010, was submitted on February 1, 2010 as part of the amendment request package. The revised post-construction best management practices site maps can be found in Addendum 2.

After a review of the Project's file and the revised Conceptual Water Quality Management Plan, dated January 25, 2010, I concur that the proposed changes to the amended Certification are reasonable modifications to the Section 401 Water Quality Certification. As a result, the Section 401 Water Quality Certification for the Saddleback Meadows Project has been amended to reflect these proposed changes. The amendments are included as Enclosure 1.

California Environmental Protection Agency



The heading portion of this letter includes a Regional Board code number noted after "In reply refer to:" In order to assist us in the processing of your correspondence please include this code number in the heading or subject line portion of all correspondence and reports to the Regional Board pertaining to this matter. If you have any questions regarding this notification, please contact Chad Loflen at (858) 467-2727 or cloflen@waterboards.ca.gov.

Respectfully,



DAVID W. GIBSON
Executive Officer

Enclosures

1. Amendment #2 to Clean Water Act Section 401 Water Quality Certification No. 02C-105
2. Amendment #1 to Water Act Section 401 Water Quality Certification No. 02C-105
3. Clean Water Act Section 401 Water Quality Certification No. 07C-099, dated February 02, 2009

Tech Staff Info & Use	
File No.	02C-105
Reg. Measure	214126
ID Place ID	255009

Joe LaCava
02C-105 Amendments

- 3 -

March 03, 2010

cc (via email only):

Jae Chung
US Army Corps of Engineers Regulatory Branch,
Yong.J.Chung@usace.army.mil

Bill Orme
State Water Resources Control Board, Division of Water Quality
401 Water Quality Certification and Wetlands Unit
Stateboard401@waterboards.ca.gov

David W. Smith
Wetlands Regulatory Office
U.S. Environmental Protection Agency, Region 9
R9-WTR8-Mailbox@epa.gov

Barry Jones
Helix Environmental Planning, Inc.
BarryJ@helixepi.com

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD,
SAN DIEGO REGION**

**AMENDMENT 2
TO**

**CLEAN WATER ACT SECTION 401
WATER QUALITY CERTIFICATION NO. 02C-105**

FOR

SADDLEBACK MEADOWS

Condition A.7 is modified:

A.7 All post-construction best management practices (BMPs) associated with the residential development, including ~~“Stormceptor” units, vegetated swale, detention basin, and energy dissipaters, and described in the Conceptual Water Quality Management Plan dated January 25, 2010 (see attachment 1)~~ shall be maintained by California Quartet, until such responsibility is legally transferred to another entity.

- a) Monitoring, inspection and maintenance of the post-construction BMPs shall be performed as proposed in the Conceptual Water Quality Management Plan (dated ~~January 25, 2010~~ November 21, 2004) prepared by Hunsaker and Associates, except as modified during agency review.
- d) Commercial stormwater BMPs, including ~~“Stormceptor” units or equivalent,~~ shall be maintained by California Quartet or the homeowners association per the manufacturer’s specifications.

Condition A.7.e is deleted:

~~A.7.e. Prior to discharging fill to waters of the U.S./State, California Quartet shall provide the Regional Board with an analysis demonstrating that post-construction best management practices have been designed to prevent the erosion of downstream habitat caused by modifications to the stormwater flow regime for the project.~~

Condition A.8 is added:

A.8. Post-construction BMPs must be installed and functional prior to occupancy and/or planned use of development areas.

Condition B.1 is modified and restored:

B.1. California Quartet shall implement mitigation measures as specified in the application for 401 water quality certification and all subsequent submittals required as part of this certification. Habitat mitigation shall be performed per the Final Mitigation and Monitoring Plan (dated ~~January 23, 2002~~ July 24, 2006) unless modified pursuant to state and Federal resource agencies (USACE, CDFG, or USFWS)

b) Mitigation for the project shall include the restoration, enhancement and creation of no less than 3.84 acres for the discharge of fill to 1.80 acres of waters of the U.S./State as follows:

- i) Restoration of all temporarily-disturbed waters by reconstructing streambeds in their original locations as part of the remedial grading;
- ii) On-site creation of 0.827 acre of ephemeral ponds created to support Riverside Fairy Shrimp, 0.67 acres of created wetlands and 0.27 acres of recreated streambeds ~~0.14 acre of sycamore woodland, and 0.92 acre of mule-fat scrub;~~
- iii) ~~On-site enhancement of 0.28 acre of sycamore woodland and 0.67 acre of mule fat scrub; and~~
- iv) Off-site creation of 0.9 acres of riparian habitat, enhancement and restoration of 0.2 acres of riparian habitat, and purchase of 0.98 acre of streambed within the Viejo or Hidden Ranch Mitigation Banks ~~0.3 acre of mule fat scrub and 1.05 acres of non-wetland waters.~~

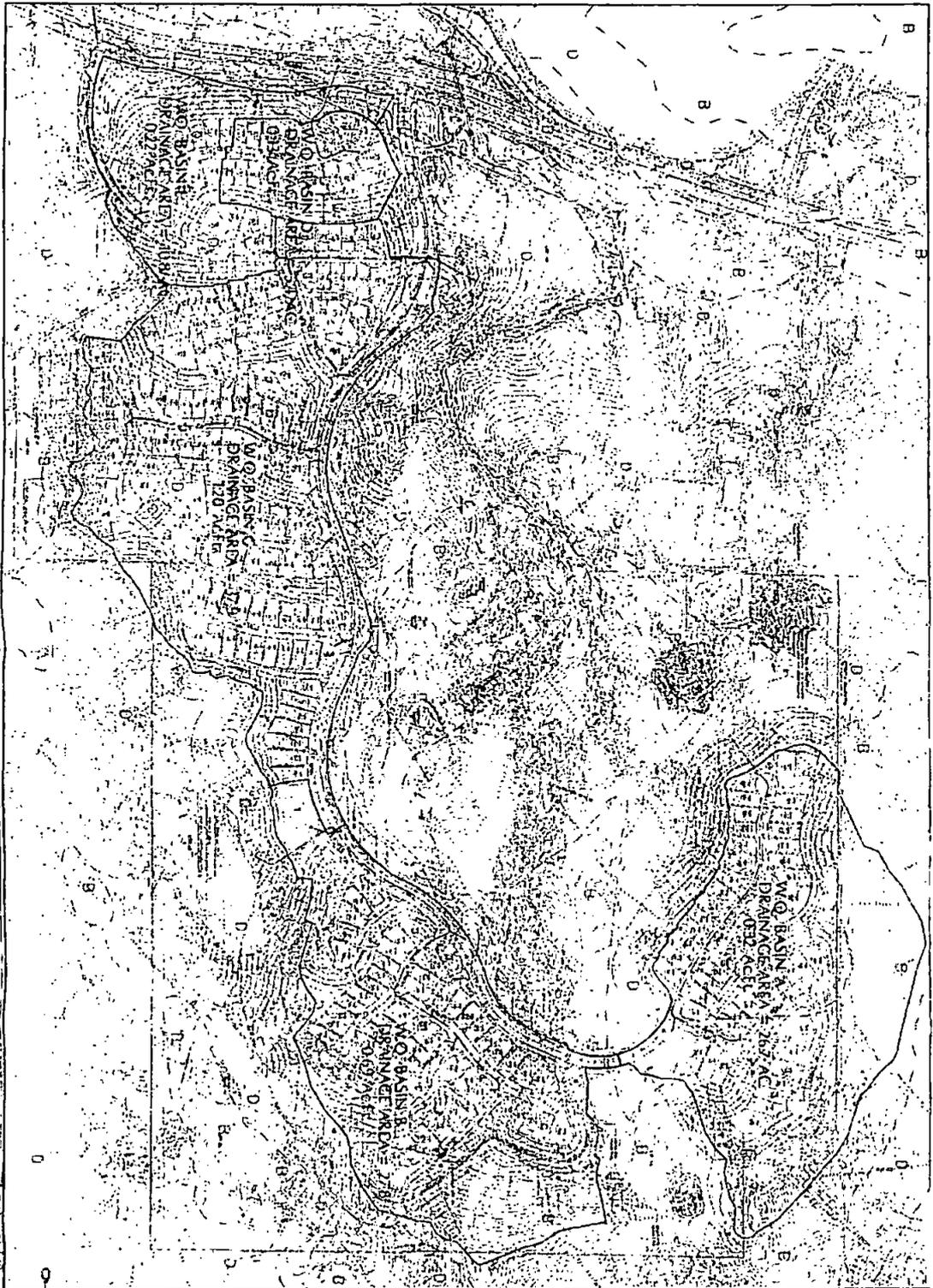


DAVID W. GIBSON
Executive Officer

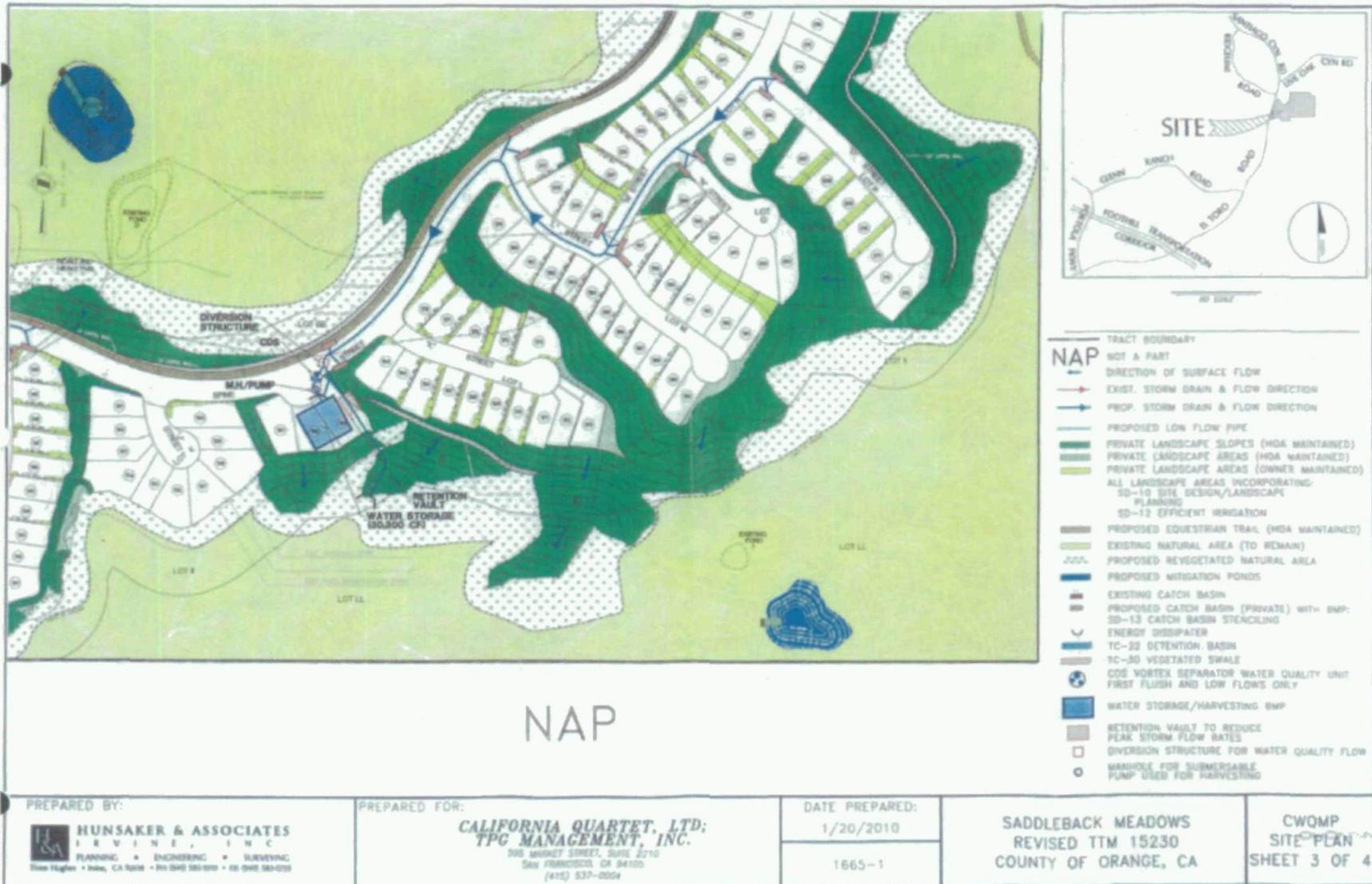
3/3/2010

Date

Attachment 1 to Addendum No. 2



3/9/2010



01000410



California Regional Water Quality Control Board

San Diego Region




Linda Adams
Secretary for
Environmental
Protection

Over 50 Years Serving San Diego, Orange, and Riverside Counties
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Arnold Schwarzenegger
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(858) 467-2952 • Fax (858) 571-6972
[http:// www.waterboards.ca.gov/sandiego](http://www.waterboards.ca.gov/sandiego)

September 19, 2006

In reply refer to:
NWU:18-2002105.02:haasj

Joe LaCava
California Quartet
c/o TPG Management, Inc.
595 Market Street, Suite 2210
San Francisco, CA 94105

Dear Mr. LaCava:

SADDLEBACK MEADOWS (TENTATIVE TRACT NO. 15230) PROJECT
Section 401 certification No. 02C-105
WDID No. 9 000001060

On August 1, 2006 the California Regional Water Quality Control Board, San Diego Region, (Regional Board) received a request from Mr. Barry Jones of Helix Environmental Planning, Inc, acting as your representative, to amend a Clean Water Act Section 401 water quality certification issued to California Quartet for discharges of fill associated with the Saddleback Meadows Project (401 certification no. 02C-105) in unincorporated Orange County. A revised habitat mitigation plan¹ and a revised conceptual post-construction water quality management plan (WQMP)² were submitted in support of the amendment request.

The 401 Certification was issued on December 4, 2002. Since then, the proposed project has been revised to provide for an east-west wildlife corridor through the property that connects to off-site open space areas. The number of proposed lots has been reduced from 283 to 226, and the revised plans concentrate development on the southern portion of the site, which reduces the proposed discharge of fill to waters of the U.S./State by 0.37 acre.

Based on a review of the original application and the supplemental materials supplied in support of the amendment request, it is unlikely that proposed project activities would result in significantly increased effects to water quality or beneficial uses of the waters. The revised mitigation plan is adequate to compensate for effects to beneficial uses associated with unavoidable losses of waters of the U.S./State. The conceptual WQMP

¹ *Final Mitigation and Monitoring Plan* (Helix Environmental Planning, Inc., July 24, 2006)

² *Conceptual Water Quality Management Plan* (Hunsaker and Associates Irvine, Inc., February 24, 2005)

proposes a plan for the treatment of post-construction stormwater discharges, but it defers development of hydrologic studies that could support its conclusion regarding effects on downstream erosion. As a result, Conditions A.7 and B.1 of 401 Certification No. 02C-105 are amended as follows:

- A.7.e Prior to discharging fill to waters of the U.S./State, California Quartet shall provide the Regional Board with an analysis demonstrating that post-construction best management practices have been designed to prevent the erosion of downstream habitat caused by modifications to the stormwater flow regime by the project.
- B.1. California Quartet shall implement mitigation measures as specified in the application for 401 water quality certification and all subsequent submittals required as part of this certification. Habitat mitigation shall be performed per the Final Mitigation and Monitoring Plan (dated ~~January 23, 2002~~ July 24, 2006) unless modified pursuant to state and Federal resource agencies (USACE, CDFG, or USFWS).
- a) California Quartet shall submit an as-built report to the Regional Board within 60 days of installation of each of the proposed mitigation phases. This report shall include, at a minimum, relevant photodocumentation and narrative descriptions of the mitigation phases.
 - b) Mitigation for the project shall include the restoration, enhancement, and creation of no less than 3.84 acres for the discharge of fill to 1.80 acres of waters of the U.S./State shall include the restoration, creation, and enhancement of waters of the U.S./State as follows:
 - i) Restoration of all temporarily-disturbed waters by reconstructing streambeds in their original locations as part of the remedial grading;
 - ii) On-site creation of 0.87 acre of ephemeral ponds created to support Riverside Fairy Shrimp, 0.14 acre of sycamore woodland, and 0.92 acre of mule-fat scrub;
 - iii) On-site enhancement of 0.28 acre of sycamore woodland and 0.67 acre of mule-fat scrub; and
 - iv) Off-site creation of 0.3 acre of mule fat scrub and 1.05 acres of non-wetland waters.
 - c) All revegetation shall be installed no later than 120 days following completion of development grading.

Mr. LaCava
Saddleback Meadows Project

- 3 -

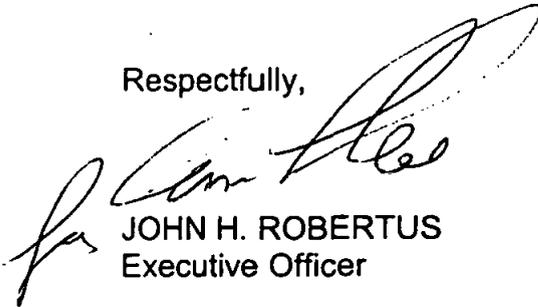
September 19, 2006

California Quartet is required to submit a Report of Waste Discharge to the Regional Board for any planned discharge of fill into any waters on the site that were subject to the original 401 Certification for which the USACE determines are no longer subject to a Section 404 permit.

The heading portion of this letter includes a Regional Board code number noted after "In reply refer to:" In order to assist us in the processing of your correspondence please include this code number in the heading or subject line portion of all correspondence and reports to the Regional Board pertaining to this matter.

If you have any questions or need further clarification, please contact Jeremy Haas directly at 858-467-2735 or jhaas@waterboards.ca.gov.

Respectfully,



JOHN H. ROBERTUS
Executive Officer

JHR:js:jch
CIWQS Place ID No. 255009
CIWQS Regulatory Measure ID No. 214126

cc:

Bill Orme; State Water Resources Control Board; Division of Water Quality; 401 Water Quality Certification and Wetlands Unit;
Jae Chung; U.S. Army Corps of Engineers; Regulatory Branch; P.O. Box 532711; Los Angeles, CA 90053-2325
Tim Vendlinsky; Wetlands Regulatory Office; U.S. Environmental Protection Agency, Region 9; 75 Hawthorne Street; San Francisco, CA 94105
Barry L. Jones; Helix Environmental Planning, Inc.; 8100 La Mesa Blvd, Suite 150; La Mesa, CA 91941



California Regional Water Quality Control Board

San Diego Region



Winston H. Hickox
Secretary for
Environmental
Protection

Internet Address: <http://www.swrcb.ca.gov/rwqcb9/>
9174 Sky Park Court, Suite 100, San Diego, California 92123
Phone (858) 467-2952 • FAX (858) 571-6972

Gray Davis
Governor

Action on Request for
Clean Water Act section 401 Water Quality Certification
and Application/Report of Waste Discharge
for Discharge of Dredged and/or Fill Materials

PROJECT: Saddleback Meadows (File No. 02C-105)

APPLICANT: H. Pike Oliver
California Quartet
3323 Watt Avenue, Box 291
Sacramento, CA 95821-3609

ACTION:

1. Order for Standard Certification
2. Order for Technically-conditioned Certification
3. Order for Denial of Certification

I. STANDARD CONDITIONS:

The following three standard conditions apply to all certification actions, except as noted under Condition 3 for denials (Action 3).

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to section 13330 of the California Water Code and section 3867 of Title 23 of the California Code of Regulations (23 CCR).
2. This certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to 23 CCR subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. The validity of any non-denial certification action (Actions 1 and 2) shall be conditioned upon total payment of the full fee required under 23 CCR section 3833, unless otherwise stated in writing by the certifying agency.

California Environmental Protection Agency

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II. ADDITIONAL CONDITIONS:

A. PROJECT CONDITIONS

1. California Quartet shall, at all times, fully comply with the engineering plans, specifications and technical reports submitted with this application for 401 Water Quality Certification and all subsequent submittals required as part of this certification.
2. California Quartet shall, at all times, fully comply with the requirements of State Water Resources Control Board Water Quality Order No. 99-08-DWQ, the NPDES General Permit for Storm Water Discharges Associated with Construction Activity.
3. This Certification is not transferable to any person except after notice to the Executive Officer of the San Diego Regional Water Quality Control Board (Regional Board). The owner shall submit this notice in writing at least 30 days in advance of any proposed transfer. The notice must include a written agreement between the existing and new owner containing a specific date for the transfer of this Certification's responsibility and coverage between the current discharger and the new discharger. This agreement shall include an acknowledgement that the existing owner is liable for violations up to the transfer date and that the new owner is liable from the transfer date on.
4. In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification.
5. In response to a suspected violation of any condition of this certification, the Regional Board may require the holder of any permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the Regional Board deems appropriate, provided that the burden, including costs, of the reports shall be a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
6. In response to any violation of the conditions of this certification, the RWQCB may add to or modify the conditions of this certification as appropriate to ensure compliance.
7. All post-construction best management practices (BMPs) associated with the residential development, including "Stormceptor" units, vegetated swale, detention basin, and energy dissipaters shall be maintained by California Quartet, until such responsibility is legally transferred to the local homeowners association or other entity.

- a) Monitoring, inspection, and maintenance of the post-construction BMPs shall be the performed as proposed in the Conceptual Water Quality Management Plan (dated November 21, 2001) prepared by Hunsaker and Associates, except as modified during agency review.
- b) The final plan for maintenance, inspection and assessing the effectiveness of BMPs, including testing, that is to be prepared for the project's final Water Quality Management Plan shall be submitted to the Regional Board within 30 days of finalization.
- c) California Quartet shall provide the Regional Board a copy of the final maintenance agreement that legally transfers responsibility of post-construction BMPs to the Master Homeowners Association or equivalent. This agreement shall include specific maintenance commitments for all structural BMPs.
- d) Commercial stormwater BMPs, including "Stormceptor" units or equivalent, shall be maintained by California Quartet or the homeowners association per the manufacturer's specifications.

B. MITIGATION

1. California Quartet shall implement mitigation measures as specified in the application for 401 water quality certification and all subsequent submittals required as part of this certification. Habitat mitigation shall be performed per the Final Mitigation and Monitoring Plan (dated January 23, 2002) unless modified pursuant to state and Federal resource agencies (USACE, CDFG, or USFWS).
 - a) California Quartet shall submit an as-built report to the Regional Board within 60 days of installation of each of the proposed mitigation phases. This report shall include, at a minimum, relevant photodocumentation and narrative descriptions of the mitigation phases.
 - b) Mitigation for the project shall include the restoration, enhancement, and creation of no less than 3.84 acres.
 - c) All revegetation shall be installed no later than 120 days following finishing of development grading.
2. Mitigation of ephemeral ponds and Riverside fairy shrimp habitat shall be conducted in accordance with conservation measures contained in the USFWS biological opinion.
3. All planned off-site mitigation acquisitions shall be secured at least 60 days prior to the planned date of initiating impacts to on-site waters of the U.S.

4. All waters of the United States or State that are to be preserved shall be temporarily fenced for protection purposes no less than 10 days prior to the start of any adjacent clearing/grading activities. A qualified biologist shall show all preservation areas to all construction personnel and shall explain the conditions of this certification and other permits regarding impacts.
5. A qualified biologist shall be onsite at least once a day when grading and/or construction activities occur within 100 feet of a waters of the U.S. or State. The biologist shall be given the authority to stop all work onsite if a violation occurs or has the potential to occur. The qualified biologist shall be onsite daily, for the entire work period, during plant installation within the mitigation areas.
6. California Quartet shall record a conservation easement(s) or deed restriction(s) over all on-site preservation areas and mitigation areas and shall submit proof of this easement/deed to the Regional Board within 60 days of completion of on-site restoration planting. California Quartet shall submit draft easement language to the Regional Board no later than 60 days prior to initiating impacts to on-site waters of the U.S. The conservation easement/deed shall be adequate to demonstrate that the site will be maintained without future development or encroachment on the site or which could otherwise reduce the functions and values of the site for the variety of beneficial uses of waters of the U.S. that it supports. The conservation easement/deed shall prohibit, without exception, all residential, commercial, industrial, institutional, and transportation development, and any other infrastructure development that would not maintain or enhance the wetland functions and values of the site. Other infrastructure development to be prohibited includes, but is not limited to, additional utility lines, paved maintenance roads, and areas of maintained landscaping for recreation.
7. At the end of each of the five monitoring period growing seasons, an annual report (to be submitted by December 1 of each year that monitoring is performed) will be prepared for submittal to the USACE and CDFG. These reports will assess both attainment of yearly target criteria and progress toward final success criteria. These reports shall include the following:
 - A list of names, titles, and companies of all persons who prepared the content of the annual report and participated in monitoring activities for that year;
 - A copy of the USACE and CDFG authorizations and any attachments including Special Conditions and subsequent Letters of Modification;
 - An analysis of all qualitative monitoring data;
 - Copies of all monitoring photographs; and
 - Maps identifying monitoring areas, transects, planting zones, etc. as appropriate.

REGIONAL WATER QUALITY CONTROL BOARD CONTACT PERSON:

Jeremy Haas
California Regional Water Quality Control Board, San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123
858-467-2735

WATER QUALITY CERTIFICATION:

I hereby certify that the proposed discharge from the Saddleback Meadows Project (File No. 02C-105) will comply with the applicable provisions of sections 301 ("Effluent Limitations"), 302 ("Water Quality Related Effluent Limitations"), 303 ("Water Quality Standards and Implementation Plans"), 306 ("National Standards of Performance"), and 307 ("Toxic and Pretreatment Effluent Standards") of the Clean Water Act. The proposed project as conditioned is consistent with conditions specified in the Water Quality Control Plan for the San Diego Basin (9) (Basin Plan) for a waiver of waste discharge requirements. Although the adoption of waste discharge requirements is being waived at this time, we may issue waste discharge requirements should new information come to our attention that indicates a water quality problem.

Except insofar as may be modified by any preceding conditions, all certification actions are contingent on (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the applicants' project description and/or on the attached Project Information Sheet, and (b) on compliance with all applicable requirements of the Regional Water Quality Control Board's Water Quality Control Plan (Basin Plan).



JOHN H. ROBERTUS
Executive Officer
Regional Water Quality Control Board

12-4-02
Date

Attachments 1 and 2

ATTACHMENT 1

PROJECT INFORMATION

Applicant: H. Pike Oliver
California Quartet
3323 Watt Avenue, Box 291
Sacramento, CA 95821-3609
916-482-7200
916-482-7299 (f)

Applicant
Representatives: Barry L. Jones
Helix Environmental Planning, Inc.
8100 La Mesa Blvd, Suite 150
La Mesa, CA 91941
619-462-1515
619-462-0552 (f)

Project Name: Saddleback Meadows (File No. 02C-105)

Project Location: The project site is 222 acres in unincorporated southeastern Orange County, within the foothills of the Santa Ana Mountains, east of El Toro Road, approximately 1,000 feet south of Live Oak Canyon Road in the Foothill-Trabuco area. (Santiago Peak and El Toro USGS 7.5 minute quadrangle maps).

Type of Project: Residential Development

Project Description: The proposed project would construct a 283-unit residential development on approximately 156 acres through conventional and remedial grading for houses and associated roads, utilities, and a water tank. Approximately 70% of the project site will be disturbed by mass grading, and 71% of the property site will be placed into permanent open space.

Federal Agency/Permit: U.S. Army Corps of Engineers – Section 404 Individual Permit

Other Required Regulatory
Approvals: California Department of Fish and Game Streambed Alteration Agreement.

California Environmental
Quality Act (CEQA)
Compliance: The County of Orange filed a Notice of Determination for the project's Environmental Impact Report on November 7, 2002.

Receiving Water: Aliso Creek (HSA 901.13), Oso Creek (HSA 901.21), Arroyo Trabuco (HSA 901.22).

Impacted Waters of the United States:	The proposed project will impact 2.08 acres of jurisdictional waters of the U.S., including 1.25 acres of streambed and 0.83 acres of wetlands. Of those wetlands, 0.24 acres are ephemeral ponds occupied by the endangered Riverside fairy shrimp.
Dredge Volume:	n/a
Related Projects Implemented/to be Implemented by the Applicant(s):	n/a
Avoidance/Minimization Measures:	Project revisions pursuant to agency consultations have reduced the impacts to ephemeral ponds containing endangered Riverside fairy shrimp, and substantial impacts to the primary on-site drainage have been avoided. A total of 3.21 acres of waters of the U.S. will be preserved.
Compensatory Mitigation:	On-site and off-site mitigation is proposed for impacts to jurisdictional waters at ratios of 3:1 for wetlands and 1:1 for streambed. The total mitigation area is 3.84 acres. On-site mitigation includes 0.82 acres of created ephemeral ponds, 0.67 acres of created wetlands, and 0.27 acres of recreated streambeds. Off-site mitigation includes 0.9 acres of created riparian habitat, 0.2 acres of preservation and enhancement of riparian habitat, and purchase of 0.98 acre of streambed within the Viejo or Hidden Ranch Mitigation Banks.
Best Management Practices:	Structural post-construction BMPs include the use of infiltration swales, a detention basin, end-of-pipe "stormceptor" units, and energy dissipaters.

**ATTACHMENT 2
DISTRIBUTION LIST**

U.S. Army Corps of Engineers
Attn: Jae Chung
Regulatory Branch
Los Angeles District Office
P.O. Box 532711
Los Angeles, CA 90053-2325

State Water Resources Control Board
Division of Water Quality

Michael McCollum
McCollum Associates
10196 Clover Ranch Drive
Sacramento, CA 95829-6574

11040

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1. Article Addressed to:

Joe LaCava
 California Quartet
 5274 La Jolla Blvd.
 La Jolla, CA 92037

2. Article Number

(Transfer from service label)

7009 1410 0002 2347 3940

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

Agent

Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? Yes

If YES, enter delivery address below: No

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Express Mail

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Return Receipt for Merchandise

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C.O.D.

4. Restricted Delivery? (Extra Fee)

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Joe LaCava, California Quartet

Street, Apt. No., or PO Box No.

5274 La Jolla Blvd

City, State, ZIP+4

La Jolla CA 92037

PS Form 3800, August 2006

See Reverse for Instructions